

**Amendment Offered by Mr. Ney**

**To the Amendment in the Nature of a  
Substitute Offered by Mrs. Capito**

Page 79, after line 20, add the following new title  
(and conform the table of contents accordingly):

1 **TITLE VIII—PRESIDENTIAL COM-**  
2 **MISSION ON FINANCIAL PRI-**  
3 **VACY AND NATIONAL SECUR-**  
4 **ITY**

5 **SEC. 801. SHORT TITLE.**

6 This title may be cited as the “Financial Privacy and  
7 National Security Enhancement Act”.

8 **SEC. 802. ESTABLISHMENT.**

9 There is hereby established a commission to be known  
10 as the “Presidential Commission on Financial Privacy and  
11 National Security” (hereafter in this title referred to as  
12 the “Commission”).

13 **SEC. 803. DUTIES OF THE COMMISSION.**

14 (a) IN GENERAL.—The Commission shall conduct an  
15 ongoing study of the practices in the financial service in-  
16 dustry for protecting the privacy of consumer financial in-  
17 formation, the manner and extent to which such practices



1 are regulated by financial service regulators, and ways to  
2 improve and strengthen financial information privacy  
3 while preserving effective financial information flow for  
4 national security.

5 (b) SPECIFIC QUESTIONS.—In conducting the study,  
6 the Commission shall address and seek comments on the  
7 following issues:

8 (1) In what manner and to what extent would  
9 the existence of State financial privacy laws or other  
10 restrictions on the free flow of financial information  
11 impair or hinder the ability of the Federal Govern-  
12 ment to investigate money laundering or fraud, in-  
13 cluding identity theft?

14 (2) Is the information already being distributed  
15 to the consumers concerning the privacy of consumer  
16 financial information readily understandable and is  
17 it a benefit to the consumer?

18 (3) What is the cost, to a financial institution  
19 and ultimately to each consumer, of mailing or oth-  
20 erwise distributing privacy notices to each consumer  
21 in accordance with applicable law?

22 (4) What financial information privacy concerns  
23 are not addressed by title V of the Gramm-Leach-  
24 Bliley Act and other laws and regulations imple-  
25 menting such title?



1           (5) To what extent is there a uniform agree-  
2           ment among financial regulators on what constitutes  
3           financial privacy and what processes are utilized to  
4           review developments and technological changes in  
5           the delivery of financial services that may affect fi-  
6           nancial privacy?

7           (6) What would be the potential impact on con-  
8           sumers if there were a variety of requirements with  
9           respect to financial privacy in effect under the laws  
10          of the several States and how would the existence of  
11          such a variety of requirements cost the financial  
12          services industry?

13   **SEC. 804. MEMBERSHIP.**

14          (a) NUMBER AND APPOINTMENT.—The Commission  
15   shall be composed of 11 members :

16           (1) The Chairman of the Securities and Ex-  
17           change Commission, or a Commissioner of the Secu-  
18           rities and Exchange Commission designated by the  
19           Chairman.

20           (2) The Chairman of the Board of Governors of  
21           the Federal Reserve System, or a member of such  
22           Board designated by the Chairman.

23           (3) The Secretary of the Treasury, or an officer  
24           of the Department of the Treasury designated by  
25           the Secretary.



1           (4) The Attorney General, or an officer of the  
2           Department of Justice designated by the Attorney  
3           General.

4           (5) A State insurance commissioner appointed  
5           by the President after consulting with the National  
6           Association of Insurance Commissioners.

7           (6) The Speaker of the House of Representa-  
8           tives, or a designee of the Speaker.

9           (7) The minority leader of the House of Rep-  
10          resentatives, or a designee of the minority leader.

11          (8) The majority leader of the Senate, or a des-  
12          ignee of the majority leader.

13          (9) The minority leader of the Senate, or a des-  
14          ignee of the minority leader.

15          (10) 2 members appointed by the President  
16          from among individuals who are especially well  
17          qualified to serve by virtue of their education, train-  
18          ing, and experience in the financial services industry.

19          (b) CONTINUATION OF MEMBERSHIP.—If a member  
20          was appointed to the Commission as a Member of Con-  
21          gress or by virtue of such member's position in the House  
22          of Representatives, the Senate, or a Federal agency and  
23          the member ceases to be a Member of Congress or to serve  
24          in any such position that member may continue as a mem-  
25          ber for not longer than the 30-day period beginning on



1 the date that member ceases to be a Member of Congress  
2 or serve in such position.

3 (c) TERMS.—

4 (1) IN GENERAL.—Each member shall be ap-  
5 pointed for the life of the Commission.

6 (2) VACANCIES.—Any member appointed to fill  
7 a vacancy occurring before the expiration of the  
8 term for which the member's predecessor was ap-  
9 pointed shall be appointed only for the remainder of  
10 that term. A member may serve after the expiration  
11 of that member's term until a successor has taken  
12 office.

13 (d) VACANCY.—A vacancy in the Commission shall  
14 be filled in the manner in which the original appointment  
15 was made.

16 (e) NO PAY.—Members shall serve without pay.

17 (f) TRAVEL EXPENSES.—Each member shall receive  
18 travel expenses, including per diem in lieu of subsistence,  
19 in accordance with sections 5702 and 5703 of title 5,  
20 United States Code.

21 (g) QUORUM.—A majority of the members of the  
22 Commission shall constitute a quorum but a lesser number  
23 may hold hearings.



1 (h) CHAIRPERSON.—The Chairperson of the Com-  
2 mission shall be elected by the members from the member-  
3 ship of the Commission.

4 (i) MEETINGS.—

5 (1) IN GENERAL.—The Commission shall meet  
6 at least once each calendar quarter at the call of the  
7 Chairperson or a majority of the members.

8 (2) OPEN MEETINGS REQUIRED.—Section 552b  
9 of title 5, United States Code, shall apply.

10 **SEC. 805. DIRECTOR AND STAFF OF COMMISSION; EXPERTS**  
11 **AND CONSULTANTS.**

12 (a) DIRECTOR.—The Commission may, without re-  
13 gard to section 5311(b) of title 5, United States Code,  
14 have a Director who shall be appointed by the Commis-  
15 sion. The Director shall be paid at a rate not to exceed  
16 \$140,000 per year.

17 (b) STAFF.—The Commission may appoint and fix  
18 the pay of such additional personnel as the Commission  
19 considers appropriate.

20 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE  
21 LAWS.—The Director and staff of the Commission may  
22 be appointed without regard to the provisions of title 5,  
23 United States Code, governing appointments in the com-  
24 petitive service, and may be paid without regard to the  
25 provisions of chapter 51 and subchapter III of chapter 53



1 of that title relating to classification and General Schedule  
2 pay rates, except that an individual so appointed may not  
3 receive pay in excess of \$140,000 per year.

4 (d) EXPERTS AND CONSULTANTS.—Subject to regu-  
5 lations prescribed by the Commission, the Commission  
6 may procure temporary and intermittent services under  
7 section 3109(b) of title 5, United States Code.

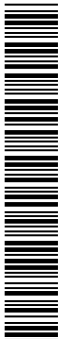
8 (e) STAFF OF FEDERAL AGENCIES.—Upon request  
9 of the Commission, the head of any Federal department  
10 or agency may detail, on a reimbursable basis, any of the  
11 personnel of that department or agency to the Commission  
12 to assist it in carrying out its duties under this title.

13 **SEC. 806. POWERS OF COMMISSION.**

14 (a) HEARINGS AND SESSIONS.—The Commission  
15 may, for the purpose of carrying out this title, hold hear-  
16 ings, sit and act at times and places, take testimony, and  
17 receive evidence as the Commission considers appropriate.

18 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-  
19 ber or agent of the Commission may, if authorized by the  
20 Commission, take any action which the Commission is au-  
21 thorized to take by this section.

22 (c) OBTAINING OFFICIAL DATA.—The Commission  
23 may secure directly from any department or agency of the  
24 United States information necessary to enable it to carry  
25 out this title. Upon request of the Chairperson of the Com-



1 mission, the head of that department or agency shall fur-  
2 nish that information to the Commission.

3 (d) **MAILS.**—The Commission may use the United  
4 States mails in the same manner and under the same con-  
5 ditions as other departments and agencies of the United  
6 States.

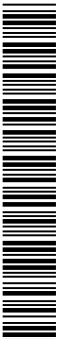
7 (e) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon  
8 the request of the Commission, the Administrator of Gen-  
9 eral Services shall provide to the Commission, on a reim-  
10 bursable basis, the administrative support services nec-  
11 essary for the Commission to carry out its responsibilities  
12 under this title.

13 **SEC. 807. REPORT.**

14 The Commission shall transmit a final report to the  
15 President and the Congress not later than March 31,  
16 2005. The final report shall contain a detailed statement  
17 of the findings and conclusions of the Commission, to-  
18 gether with its recommendations for such legislative or ad-  
19 ministrative actions as the Commission considers appro-  
20 priate.

21 **SEC. 808. TERMINATION.**

22 The Commission shall terminate 30 days after sub-  
23 mitting its final report pursuant to section 807.





1   **SEC. 809. MORATORIUM ON STATE FINANCIAL PRIVACY**

2                   **LAWS.**

3           (a) **IN GENERAL.**—During the period beginning on  
4 the date of the enactment of this Act and ending on the  
5 date the Commission terminates under section 808, no re-  
6 quirement or prohibition may be imposed under the laws  
7 of any State, including laws relating to the business of  
8 insurance, concerning the use or disclosure by a financial  
9 institution of information relating to a consumer that has  
10 obtained a financial product or service from the financial  
11 institution.

12          (b) **EXCEPTION.**—Subsection (a) shall not apply  
13 State insurance laws or regulations referred to in section  
14 505(a)(6) of the Gramm-Leach-Bliley Act.

